



Law of Mongolia on Concessions

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Main author: Julia Weller
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Submitted by: EPRC Project/Chemonics International Inc., Tavan Bogd Plaza, Second Floor, Eronkhii Said Amar Street, Sukhbaatar District, Ulaanbaatar, Mongolia
Telephone and fax: (976) 11 32 13 75 Fax: (976) 11 32 78 25
Contact: Fernando Bertoli, Chief of Party
E-mail address: fbertoli@eprc-chemonics.biz

AMENDMENTS TO LAW ON STATE PUBLIC AND LOCAL PROPERTY

ARTICLE I: THE PURPOSE OF THE LAW

The purpose of this law is to amend the Law on State and Local Government Property to establish the framework for granting concessions to private investors to use existing infrastructure facilities owned by the state, and to construct new infrastructure facilities for the purpose of providing services to the general public.

ARTICLE II: CONCESSION LEGISLATION

1. The Law on State and Local Government Property is hereby amended by adding a new Chapter Seven and renumbering all of the succeeding Articles.

2. Chapter Seven of the Law on State and Local Government Property shall read as follows:

Article 65. Concepts of Concession of the State's own infrastructure property

1. The Government of Mongolia may grant a concession to domestic and foreign legal persons for the purpose of promoting privately financed infrastructure projects and providing improved services to the general public in accordance with this law, the Law on Government Procurement and the Concession Agreement, in exchange for the payment of a concession fee.

2. The terms used in this chapter shall have the meanings set forth below:

(1) "Concession" means the grant of a right to a private person by a public authority to provide services to the public using infrastructure facilities built, owned or operated by the private person, and/or the transfer to a private person by a public authority of State owned infrastructure facilities, land or other assets to provide services to the public

(2) "Concession Agreement" means an agreement executed pursuant to this law under which a Contracting Authority grants a Concession to a Concessionaire.

(3) "Concessionaire" means the privately-held entity (or entities) which is selected by the Contracting Authority to operate, maintain, refurbish, improve, expand, and finance infrastructure facilities under a Concession Agreement.

(4) "Contracting Authority" means the public authority that has the power to enter into a Concession Agreement under this law and may include [the State Property Committee, the Ministry of Fuel and Energy, the Ministry of Trade and Industry, the Ministry of and such other Ministry as the Government shall decide];

(5) "Infrastructure facility or facilities" means physical facilities and systems that directly or indirectly provide services to the general public and shall include, without limitation:

(i) Facilities to supply heat or electricity (whether provided directly to the public or to any intermediate entity) including generation, transmission, distribution and supply;

(ii) Facilities and systems for the delivery or treatment of water or waste water [including dams and reservoirs, and irrigation and drainage systems];

(iii) Sewerage and sewage treatment facilities;

- (iv) Railway infrastructure, railway traffic organization and control systems, and rolling stock;
 - (v) Oil pipelines, natural gas pipelines, storage facilities, transportation and distribution of oil and natural gas;
 - (vi) Municipal waste treatment and disposal facilities;
 - (vii) Bus, trolley, airlines and other public transportation systems;
 - (viii) Roads, bridges and tunnels;
 - (ix) Airports, air traffic control systems and terminals;
 - (x) Thermal springs used for health, recreation or heating purposes; and
 - (xi) Any other physical facilities or systems which the Government determines can be the subject of a concession agreement under this Law.
- (6) “Regulatory Authority” means a public authority that is entrusted with the power to issue approvals, licenses, permits or authorizations required for construction and operation of infrastructure facilities, and the power to establish market rules, set tariffs or fees, or set and enforce rules and regulations governing the infrastructure facilities or services provided in connection with such infrastructure facilities;
- (7) “Government Support Agreement” means any agreement, including a Stability Agreement, under which the Government, directly or indirectly, agrees to provide specified financial and other incentives to the Concessionaire, agrees to indemnify the Concessionaire for losses incurred under specified circumstances, or agrees to protect the Concessionaire against the financial consequences of legislation which becomes effective after the effective date of the Concession Agreement;
- (8) “Stability Agreement” has the meaning used in the Law on Foreign Investment;
- (9) “Transfer date” means the date on which the Contracting Authority transfers control and physical possession of the infrastructure facilities, land and assets to the Concessionaire; and
- (10) “Public services” means essential services provided to the general public that require the use of infrastructure facilities.

Article 66. Powers of Contracting Authorities

A Contracting Authority shall have the power to enter into Concession Agreements with any legal person or persons and to enter into ancillary or related agreements, including for the purpose of facilitating any related financing, as may be deemed appropriate by a Contracting Authority.

Article 67. Binding Force of Concession Agreements

1. Any agreement executed by a Contracting Authority pursuant to this law shall, unless otherwise stated on its face, be binding on the Government, [the Aimags, and the local governments]. *[Question: What role should the Governors of the Aimags and the officials of the soums play in the granting of concessions, if any?]*

2. No Concession Agreement may be entered into with respect to the following: *[Question: Are there any facilities or subsectors that should be excluded for reasons of national security?]*

Article 68. Selection of the Concessionaire by Tender

1. The Concessionaire shall be selected in accordance with the tender procedures established in the Law on Public Procurement, except that:

(a) foreign investors, as defined in the Law on Foreign Investment, may not be excluded from participating in the tender or the pre-qualification proceedings;

(b) for purposes of this law, the term “Procuring Entity” shall be replaced by “Contracting Authority;”

(c) the Tender Committee for a concession shall be created by the Contracting Authority; and

(d) the pre-qualification guidelines shall be established by the Contracting Authority.

2. In addition to the terms listed in the Law on Public Procurement, the tender announcement shall identify the main terms of the Concession Agreement.

Article 69. Review of project award and validity of the Concession agreement

1. The Government [or other competent body] shall have the power to review the selection procedure and the contract documentation for any Concession Agreement and to certify that the procedures provided for in this Law as well as any other relevant legislation of Mongolia have been complied with and that the Concession Agreement has been validly entered into.

2. No Concession Agreement which has been certified in accordance with paragraph 1 of this Article shall be deemed invalid or void because of any failure to comply with any requirement in the Law on Public Procurement or any other reason related to the award for as long as any loan under a financing agreement related to the infrastructure facilities remains outstanding.

3. Article 69.1 and 69.2 shall not affect or limit (i) any provision in any Concession Agreement relating to termination or other remedies concerned with the consequences of any impropriety or defect in the procedure for the award or entering into of any Concession Agreement or (ii) any liability of any person or persons for any wrongful act relating to the award or entering into of a Concession Agreement. Lenders may seek appropriate protection in the event of any termination for reasons of impropriety or procedural defect.

Article 70. Autonomy of the Contracting Authority

Provided the requirements of the selection procedures under the Law on Public Procurement are complied with, the terms of any Concession Agreement shall be a matter for negotiation between the Contracting Authority and the Concessionaire. Nothing in this Law shall restrict the power of the Contracting Authority to agree to an amendment to the Concession Agreement if it deems it to be in the public interest to do so.

Article 71. Contents of a Concession agreement

1. The Concession Agreement shall, unless the Contracting Authority determines otherwise, contain provisions concerning the following matters:

- (1) Nature and scope of works to be performed and services to be provided by the Concessionaire;
- (2) Any conditions which need to be complied with before the Concession Agreement can enter into force;
- (3) Duration of the Concession Agreement, in accordance with Article 72;
- (4) Degree of exclusivity of the territory, in accordance with Article 73;
- (5) Ownership of assets, in accordance with Article 74;
- (6) The date or dates by which any works have to be completed;
- (7) Any restrictions on the transfer of a controlling interest in the capital of a Concessionaire, in accordance with Article 75;
- (8) The amount of the concession fee, if any, payable by the Concessionaire, and the particular purpose, if any, for which such concession fee shall be used, in accordance with Article 76;
- (9) The rights of the Concessionaire to charge the general public for use of the infrastructure facilities or for its services, and formulas and procedures for establishing and adjusting any tariffs or fees, in accordance with Article 77;
- (10) The payments to be made, if any, by the Contracting Authority for the construction works to be performed or services to be provided by the Concessionaire;
- (11) Governing law, in accordance with Article 78;
- (12) Any requirements relating to the organization of the Concessionaire under the laws of Mongolia and any minimum capital requirements, in accordance with Article 79;
- (13) Obligations of the Contracting Authority to provide land or other assets to the Concessionaire, in accordance with Article 80;
- (14) Any easements to be acquired by the Concessionaire, in accordance with Article 81;
- (15) Indemnification by and of the parties, in accordance with Article 82;
- (16) The right of the Concessionaire to create security interests, in accordance with Article 83;
- (17) The right of the Concessionaire to assign its rights, whether by way of security for financing purposes or otherwise, and any conditions applicable to such assignments, in accordance with Article 84;
- (18) Operation of the infrastructure facilities, in accordance with Article 85;

- (19) Any Government support to be provided to the Concessionaire, in accordance with Article 86;
- (20) The right of the Concessionaire to compensation for increased costs due to changes in laws or regulations applicable to the infrastructure facilities, in accordance with Article 87;
- (21) Circumstances under which the Concession Agreement may be revised, in accordance with Article 88;
- (22) Circumstances under which the infrastructure facility that is the subject of the Concession may be taken over by the Contracting Authority, in accordance with Article 89;
- (23) Circumstances under which the Concessionaire may be replaced by a substitute Concessionaire, in accordance with Article 90;
- (24) Remedies available to the Contracting Authority and the Concessionaire in the event of a breach by the other party;
- (25) Termination rights of the parties, in accordance with Article 91;
- (26) Any compensation to be paid in the event of termination, in accordance with Article 92;
- (27) Any requirements concerning performance bonds or other financial guarantees that the Concessionaire may be required to provide or any insurance policies that the Concessionaire may be required to maintain in connection with the construction or the operation of the infrastructure facility;
- (28) Obligations and liabilities of the Concessionaire and the Contracting Authority related to protection of the environment, in accordance with Article 93;
- (29) Obligations of the Contracting Authority or state owned entities for debts related to the infrastructure facilities that were incurred prior to the effective date of the Concession Agreement, in accordance with Article 94;
- (30) Any rights of the Contracting Authority to monitor the performance of the Concessionaire's obligations, including the Contracting Authority's rights to conduct safety inspections of the relevant infrastructure facilities;
- (31) Taxation and fiscal matters;
- (32) The relationship between the Concession Agreement and other relevant agreements;
- (33) Any applicable provision on force majeure;
- (34) Procedures, if any, for the review and approval of engineering designs, construction plans and specifications by the Contracting Authority or other competent body, and the procedures for testing, inspection and approval of new infrastructure facilities by a competent body;
- (35) The extent of the Concessionaire's obligation to provide the Contracting Authority or a Regulatory Authority, as appropriate, with reports and other information on its operations;
- (36) Wind-up and transfer measures, in accordance with Article 95; and
- (37) Settlement of disputes, in accordance with Article 96.

Article 72. Maximum Duration and Extensions of Concession Agreement

1. The duration of a Concession Agreement shall be determined based on the amount of investment required, the object of the concession, the expected return on investment required to attract investment, and the need to introduce competition into the sector in which the concession is being granted. In no case shall a concession exceed [50] years.

2. A Concession Agreement may be extended by the Contracting Authority only in the case of unanticipated circumstances which could have financial consequences for the Concessionaire or could require an unacceptably high increase in tariffs or fees charged to the general public. Such circumstances include, but are not limited to:

(1) delay, suspension or interruption of construction or operation of the infrastructure facilities by the Contracting Authority or any other relevant government or quasi-government authority or agency, or due to events beyond the control of the Concessionaire; and

(2) increase in costs resulting from requirements imposed on the Concessionaire by the Contracting Authority or the relevant Regulatory Authority, which were not originally foreseen in the Concession agreement, if the Concessionaire would not be able to recover such costs without an extension.

Article 73. Degree of Exclusivity of the Concession Agreement

1. The Concession agreement shall specify the territory in which the Concessionaire has the exclusive right to provide services and the type of services which the Concessionaire has the exclusive right to provide.

2. If the Concessionaire's exclusivity right may be subject to revision during the term of the Concession Agreement due to the introduction of competition or other change in the legal or regulatory framework governing the sector in which the Concessionaire will operate, the Concession Agreement shall specifically provide for the consequences of such revision.

Article 74. Ownership of Assets

1. The Concession Agreement shall specify, as appropriate, which assets are or shall be state owned property and which assets are or shall be the private property of the Concessionaire during the term of the Concession and upon termination of the Concession. The Concession Agreement shall in particular identify which assets belong to the following categories:

(1) Assets, if any, that the Concessionaire is required to return or transfer to the Contracting Authority or to another entity indicated by the Contracting Authority in accordance with the terms of the Concession Agreement;

(2) Assets, if any, that the Concessionaire may dispose of during the term of the Concession agreement if they are no longer needed to meet its service obligations under the Concession agreement;

(3) Assets, if any, that the Contracting Authority, at its option, may purchase from the Concessionaire; and

(4) Assets, if any, that the Concessionaire may retain or dispose of upon the expiration or termination of the Concession Agreement.

2. Infrastructure facilities, land and other assets owned by the state which are transferred to the Concessionaire for its use during the term of the Concession may not be taken back or disposed of by the Contracting Authority prior to the termination of the Concession

Agreement unless they are no longer needed by the Concessionaire to meet its service obligations under the Concession Agreement.

3. Nothing in the preceding two paragraphs shall prevent the Contracting Authority from offering to sell, and the Concessionaire from purchasing, at its option, all or any part of the infrastructure facilities, land (if the Concessionaire is controlled by a Mongolian citizen) or other assets being used by the Concessionaire during the term of the Concession Agreement. *[Question: Is this permissible under Articles 29 and 31 of the State and Local Government Property Law?]*

4. Any purchases made by the Concessionaire of state owned property or by the Contracting authority of the Concessionaire's private property shall be at fair market value, as determined by an independent valuation expert.

Article 75. Transfer of Controlling Interest

Except as otherwise provided in the Concession Agreement, a controlling interest in the Concessionaire may not be transferred to third parties without the consent of the Contracting Authority. The Concession Agreement shall set forth the conditions under which consent of the Contracting Authority shall be given.

Article 76. Concession Fees

If any outstanding debts are owed by the state-owned enterprise or the Government related to the infrastructure facilities which are the subject of the concession, any concession fees paid to the Contracting Authority shall be used:

- (1) first, to pay off any outstanding international loans;
- (2) second, to pay off any commercial debts;
- (3) third, to subsidize tariffs or fees payable by budget supported customers; and
- (4) last, for any other purpose the Contracting Authority deems appropriate.

Article 77. Tariffs and Fees

1. The Concessionaire shall have the right to charge, receive or collect tariffs or fees for the use of the infrastructure facility or its services in accordance with rules established by the relevant Regulatory Authority or, if such tariffs or fees are not subject to the rules of a Regulatory Authority, in accordance with the Concession Agreement.

2. The Contracting Authority shall have the power to agree to make direct payments to the Concessionaire as a substitute for, or in addition to, tariffs or fees for the use of the facility or its services.

3. The Contracting Authority and any relevant Regulatory Authority shall have the authority to enter into a binding tariff stabilization agreement with the Concessionaire establishing the formula or methodology for setting the tariffs or fees to be collected by the Concessionaire, the process for adjustment of the tariffs or fees, the number of years for which the formula or methodology shall remain in effect, any incentives to reduce costs and increase efficiencies, and any limitations on the Regulatory Authority's ability to make changes to the tariffs or fees.

Article 78. Governing Law

Concession Agreements shall be governed by the law of Mongolia, unless otherwise provided in a Concession Agreement and permitted under the laws of Mongolia.

Article 79. Organization of Concessionaire

1. The Contracting Authority may require that the successful bidder establish a legal entity incorporated under the laws of Mongolia, provided that a statement to that effect was made in the pre-selection documents or in the request for proposals, as appropriate.
2. Any requirement relating to the minimum capital of such a legal entity and the procedures for obtaining the approval of the Contracting Authority to its statute and by-laws and significant changes to such statute and by-laws shall be set forth in the Concession Agreement consistent with the terms of the request for proposals.

Article 80. Assistance to the Concessionaire Concerning Acquisition of Land

1. The Contracting Authority shall make available under a long term lease to the Concessionaire any land owned by the Government or the state owned entity needed for operation, maintenance, improvement, and expansion of the infrastructure facilities that are the subject of the Concession Agreement.
2. The Contracting Authority shall provide such assistance as needed in obtaining the rights to land not owned by the Government or state owned entity, including title to the land, if the Concessionaire is a private entity controlled by a Mongolian citizen, or a long term lease if the Concessionaire is controlled by a non-Mongolian citizen.
2. Any compulsory acquisition of land that may be required for the operation, maintenance, improvement, and expansion of the infrastructure facilities that are the subject of the Concession Agreement shall be carried out in accordance with the laws of Mongolia that govern compulsory acquisition of private property by public authorities for reasons of public interest.

Article 81. Easements

1. The Concessionaire shall have the right to enter, transit through or do work or fix installations on the property of third parties, as appropriate and required for the operation, maintenance, improvement, and expansion of the infrastructure facilities. The Concessionaire shall comply with the laws of Mongolia concerning easements and other similar rights available to providers of public services.
2. Any easements that may be required by the Concessionaire for operation, maintenance, improvement, and expansion of the infrastructure facilities shall be created in accordance with the laws of Mongolia concerning the creation of easements for providers of public services.

Article 82. Indemnifications

1. The Concessionaire shall indemnify the Contracting Authority against any personal injury, property damage and death directly or indirectly arising out of the exercise by the Concessionaire of its rights and obligations under the Concession Agreement.
2. The Contracting Authority shall indemnify the Concessionaire against any personal injury, property damage and death directly resulting from the condition of the infrastructure facilities transferred to the Concessionaire for a period of eighteen (18) months following the transfer

date, or resulting from government inspections, testing, removal of equipment or other interference in the operation of the infrastructure facilities by the Concessionaire.

Article 83. Security Interests

1. Subject to any restrictions contained in the Concession Agreement, the Concessionaire has the right to create security interests over any of its assets, rights or interests, including those related to the infrastructure facilities, as required to obtain any financing needed for the infrastructure facilities, including the following:

- (1) A pledge of any payments of any kind received by, or any receivables owed to, the Concessionaire for the use of the infrastructure facilities or services it provides; and
- (2) Security over any part of the infrastructure facilities or any assets which the Concessionaire has constructed, improved or acquired and paid for with its own funds.
- (3) The shareholders of the Concessionaire shall have the right to pledge or create any other security interest in their shares in the Concessionaire.

Article 84. Assignment of the Concession Agreement

Except as otherwise provided Article 83, the rights and obligations of the Concessionaire under the Concession Agreement may not be assigned to third parties without the consent of the Contracting Authority. The Concession Agreement shall set forth the conditions under which the Contracting Authority shall give its consent to an assignment of the rights and obligations of the Concessionaire under the Concession Agreement, including the acceptance by the new Concessionaire of all such rights and obligations, and evidence of the new Concessionaire's technical and financial capability as necessary for providing the specified services.

Article 85. Operation of Infrastructure Facilities

1. The Concession Agreement shall set forth, as appropriate, the extent of the Concessionaire's obligations to ensure:

- (1) The modification of the specified service so as to meet the demand for the service;
- (2) The continuity and quality of the specified service; and
- (3) The provision of the specified service under essentially the same conditions for all users in the same class.

2. The Concessionaire shall provide non-discriminatory access to any public infrastructure network operated by the Concessionaire, as appropriate, for other service providers, in accordance with the rules established by the relevant Regulatory Authority or, if such services are not subject to the rules of a Regulatory Authority, in accordance with the Concession Agreement.

3. The Concessionaire shall have the right to issue and enforce rules governing the use of the infrastructure facility by third parties, subject to the approval of the relevant Regulatory Authority, or, if such services are not subject to the rules of a Regulatory Authority, in accordance with the Concession Agreement.

4. After the transfer date, the state owned entity shall have no further right or obligation to operate, maintain, refurbish improve or expand the infrastructure facilities transferred to the

Concessionaire and shall not be permitted to enter into any further loan agreements related to the transferred facilities without the consent of the Concessionaire.

5. The Contracting Authority, or state owned entity as appropriate, shall provide the Concessionaire with all feasibility studies, assessments, reports and other information in its possession related to the infrastructure facilities being transferred to the Concessionaire.

Article 86. Government Support

1. A Contracting Authority is authorized to enter into to a Government Support Agreement to protect or indemnify the Concessionaire against the financial consequences of specified events which occur after the effective date of the Concession Agreement or legislation which becomes effective after the date of the Concession Agreement.

2. A Government Support Agreement shall be subject to the following limitations:

- (1) The financial consequences to the Concessionaire must be clearly and precisely described;
- (2) The nature of the specified events or legislation must be described; and
- (3) The commitment shall terminate upon the termination of the Concession Agreement;

3. A Contracting Authority is authorized to enter into a Stability Agreement with the Concessionaire in accordance with the provisions of the Law on Foreign Investment.

Article 87. Compensation for Specific Changes in Legislation

The Concession Agreement shall set forth the extent to which the Concessionaire is entitled to compensation in the event that the cost of the Concessionaire's performance of the Concession Agreement has substantially increased or that the value that the Concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen, when such changes are the result of changes in legislation or regulations specifically applicable to the infrastructure facility or the services it provides.

Article 88. Revision of the Concession Agreement

1. Without prejudice to Article 87, the Concession Agreement shall further set forth the extent to which the Concessionaire is entitled to a revision of the Concession Agreement with a view to providing compensation in the event that the cost of the Concessionaire's performance of the Concession Agreement has substantially increased or that the value that the Concessionaire receives for such performance has substantially diminished, as compared with the costs and the value of performance originally foreseen, as a result of:

- (1) Changes in economic or financial conditions; or
- (2) Changes in legislation or regulations not specifically applicable to the infrastructure facility or the services it provides.

2. Revisions to the Concession Agreement shall be permitted only if the economic, financial, legislative or regulatory changes:

- (i) Occur after the conclusion of the contract;
- (ii) Are beyond the control of the Concessionaire; and

(iii) Are of such a nature that the Concessionaire could not reasonably be expected to have taken them into account at the time the Concession Agreement was negotiated or to have avoided or overcome their consequences.

2. The Concession Agreement shall establish procedures for revising the terms of the Concession Agreement following the occurrence of any such changes.

Article 89. Takeover of an Infrastructure Facility by the Contracting Authority

1. Under the circumstances set forth in the Concession Agreement, the Contracting Authority has the right to temporarily take over the operation of the infrastructure facility for the purpose of ensuring the effective and uninterrupted delivery of the specified services in the event of a serious failure by the Concessionaire to perform its obligations and to rectify the breach within a reasonable period of time after having been given notice by the Contracting Authority to do so, if such failure threatens public health and safety.

2. If there is a loan outstanding for which the infrastructure facilities or payments received for use of the infrastructure facilities have been pledged or given as security, the lenders shall be given a reasonable opportunity to rectify the breach before take over of the facilities by the Contracting Authority.

Article 90. Substitution of the Concessionaire

The Contracting Authority may agree with the entities extending financing for an infrastructure facility and the Concessionaire to provide for the substitution of the Concessionaire by a new entity or person appointed to perform under the existing Concession Agreement upon serious breach by the Concessionaire or other events that could otherwise justify the termination of the Concession Agreement.

Article 91. Termination Rights of the Parties

1. The Concession Agreement may be terminated by the Contracting Authority:

(1) In the event that it can no longer be reasonably expected that the Concessionaire will be able or willing to perform its obligations, owing to insolvency, serious breach of the Concession Agreement or otherwise;

(2) For compelling reasons of public interest, subject to payment of compensation to the Concessionaire, the terms of the compensation to be as agreed in the Concession Agreement;

2. The Concessionaire may not terminate the Concession Agreement except under the following circumstances:

(1) In the event of serious breach by the Contracting Authority or other public authority of its obligations in connection with the Concession Agreement; or

(2) If the conditions for a revision of the Concession Agreement under Article 88 are met, but the parties have failed to agree on a revision of the Concession Agreement.

3. The Concession Agreement may be terminated by either party:

(1) In the event that the performance of its obligations is rendered impossible by circumstances beyond either party's reasonable control; or

(2) By mutual consent.

Article 92. Compensation upon Termination of the Concession Agreement

The Concession Agreement shall state how compensation due to either party is calculated in the event of termination of the Concession Agreement. Where appropriate, compensation shall be for the fair value of works performed under the Concession Agreement, costs incurred or losses sustained by either party, including, as appropriate, lost profits.

Article 93. Environmental Liabilities and Obligations

1. Unless otherwise agreed to in the Concession Agreement, the Contracting Authority shall be responsible for remediation of environmental conditions at, on or under state owned property which do not comply with the laws of Mongolia at the time of the transfer date and shall be liable for any personal injury, property damage and death directly or indirectly arising out of any environmental conditions created before the transfer date during the eighteen (18) months following such transfer date.

2. The Contracting Authority shall be liable for any personal injury, property damage and death directly or indirectly arising out of any environmental conditions created before the transfer date, provided a toxicological evaluation and risk assessment establishing the environmental base-line as of the transfer date is completed by an independent environmental consulting firm acceptable to both parties within ninety (90) days following such transfer date.

3. The Concessionaire shall comply with all applicable environmental laws.

Article 94. Debts Related to State Owned Property

Unless otherwise agreed to in the Concession Agreement, the Contracting Authority shall be responsible for debts incurred by the Government or the state owned entity related to the state owned property prior to the transfer date.

Article 95. Wind-up and Transfer Measures

The Concession Agreement shall provide, as appropriate, for the following wind-up and transfer measures at the end of the Concession Agreement:

- (1) Mechanisms and procedures for the transfer of assets to the Contracting Authority;
- (2) The compensation to which the Concessionaire may be entitled in respect of assets transferred to the Contracting Authority or to a new Concessionaire or purchased by the Contracting Authority;
- (3) The transfer of technology required for the operation of the facility and the treatment of confidential information;
- (4) The training of the Contracting Authority's personnel or of a successor Concessionaire in the operation and maintenance of the facility; and
- (5) The provision, by the Concessionaire, of continuing support services and resources, including the supply of spare parts, if required, for a reasonable period after the transfer of the facility to the Contracting Authority or to a successor Concessionaire.

Article 96. Settlement of Disputes

1. Any disputes between the Contracting Authority and the Concessionaire shall be settled through the dispute settlement mechanisms agreed by the parties in the Concession Agreement, which may include international arbitration.

2. disputes between the Concessionaire and the general public shall be settled in accordance with any requirements established by the relevant Regulatory Authority. Where no such mechanisms are applicable, the Contracting Authority may require the Concessionaire to establish simplified and efficient mechanisms for handling claims submitted by its customers or users of the infrastructure facility.
3. The Concessionaire and its shareholders shall be free to choose the appropriate mechanisms for settling disputes among themselves.
4. The Concessionaire shall be free to agree on the appropriate mechanisms for settling disputes between itself and its lenders, other Concessionaires, suppliers and business partners.
5. Any dispute settled outside the Mongolian court system by agreement of the parties shall be binding on the parties and enforced by the Mongolian courts without modification.